

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795		Hearing Date/Agenda Number P.C. June 26, 2002 Item: 4.b.
<b>STAFF REPORT</b>		File Number PDC00-06-049
		Application Type Planned Development Rezoning
		Council District 10
		Planning Area Almaden
		Assessor's Parcel Number(s) 577-06-057
PROJECT DESCRIPTION		Completed by: SNZ
Location: Southwest corner of Almaden Expressway and McAbee Road		
Gross Acreage: 5.31	Net Acreage: 5.31	Net Density: N/A
Existing Zoning: A(PD)	Existing Use: Restaurant	
Proposed Zoning: A(PD)	Proposed Use: Addition of drive-through use	
GENERAL PLAN		Completed by: SNZ
Land Use/Transportation Diagram Designation General Commercial		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING		Completed by: SNZ
North: Single-family detached residential	A(PD) Planned Development	
East: Single-family detached residential	R-1-5 (PD) Planned Development	
South: Single-family detached residential	R-1-5 Residential	
West: Single-family detached residential	A(PD) Planned Development	
ENVIRONMENTAL STATUS		Completed by: SNZ
<input type="checkbox"/> Environmental Impact Report found complete <input checked="" type="checkbox"/> Negative Declaration circulated on October 31, 2001		<input type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY		Completed by: SNZ
Annexation Title: Casey No. 21A		Date: January 10, 1978
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input type="checkbox"/> Denial <input checked="" type="checkbox"/> Approval with Conditions	Date: June 20, 2002	Approved by: _____ <input type="checkbox"/> Action <input checked="" type="checkbox"/> Recommendation
APPLICANT	OWNER	DEVELOPER
Anthony & Alice Moitozo C/o Gillmor & Associates 1201 Franklin Mall Santa Clara CA 95050	Linda Callon Berliner Cohen 10 Almaden Blvd. 11 <sup>th</sup> Floor San Jose CA 95113-2233	James Henley, Owner/Operator 60 West Main St., Suite 11-B Morgan Hill CA 95110

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Completed by: SNZ

**Department of Public Works**

See attached Public Works memorandum

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**Other Departments and Agencies**

See attached VTA, Fire Department and ESD memorandum

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**GENERAL CORRESPONDENCE**

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See attached letters from the community

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicant is proposing a Planned Development Rezoning to allow the addition of a drive-through lane and pick-up window to an existing McDonald's restaurant on a 5.31 gross-acre site at the southwest corner of Almaden Expressway and McAbee Road. A new Planned Development rezoning is required to allow the drive-through use and establish appropriate development regulations and standards.

The subject site is currently developed with a small, L-shaped neighborhood retail center and a freestanding fast food restaurant building at the corner. The center contains 49,936 square feet of first floor retail and 4,605 second floor office uses. Surrounding uses include single-family detached residential uses on all sides and across McAbee Road and Almaden Expressway.

**Project Description**

The building containing the existing McDonald's Restaurant was originally built to accommodate an upscale restaurant, California Café, which had operated for several years before closing. McDonald's has operated a franchise restaurant facility for many years within the existing 6,300 square foot building. The restaurant contains 130 seats. The seating capacity will not be expanded as part of the project. The proposed hours of operation for the restaurant and drive-through use are 6:00 a.m. to 12:00 midnight. While the rezoning is for the entire center, not just the McDonald's facility, the current development standards will essentially be retained as originally approved. The development standards are being modified as necessary to accommodate the new drive-through proposal and to establish more appropriate requirements/limitation for the seating capacity and hours of operation.

The initial site design alternative proposed to modify the existing site plan with minimal modifications to the building in order to accommodate a drive-through lane and pick-up window. The original design provided a drive-through lane that wrapped around the front of the building, removing much of the existing front setback landscaping. Contrary to the staff recommendation for this project, the applicant is seeking approval of this original proposal.

The applicant had also prepared a site design alternative that internalized the drive-through lane in an attempt to better address staff's concern about lack of conformance to the Commercial Design Guidelines and the City Council Policy for Drive-Through Uses. This proposal while marginally acceptable to the applicant is also proposed and included in the packet for alternative consideration by the Planning Commission.

Since the applicant has been unwilling to put forth a plan that adequately all addresses policy conformance issues, Staff has also prepared an alternative site plan, based on the applicant's alternative design which satisfactorily addresses the relevant design issues. Each of these alternatives is discussed in detail in the analysis section of the report.

## **GENERAL PLAN CONFORMANCE**

The project is consistent with the site's San Jose 2020 General Plan Land Use /Transportation Diagram designation of Neighborhood/Community Commercial. Typical uses in the Neighborhood/Community Commercial designation are neighborhood serving retail and service establishments. This drive-through use is a neighborhood service establishment.

## **ENVIRONMENTAL REVIEW**

The environmental impacts of this project were addressed by an Initial Study and Mitigated Negative Declaration, circulated on October 31, 2001. Project specific environmental analysis has been completed for the project, including preparation of a noise report and a tree survey. The City of San Jose received one letter of protest on the Draft Mitigated Negative Declaration during the public review period. A separate Planning Commission Memorandum addressing the Negative Declaration Protest includes the protest letter reproduced in sections, followed by the City's response to the issues raised. A summary of the key issues is provided below. The matter of the Negative Declaration Protest will be heard by the Planning Commission concurrently with the subject rezoning.

### Noise

The noise report prepared for the project by Edward L. Pack Associates, revised July 31, 2001, concludes that noise exposure and noise levels will be within the limits of the standards of the City of San Jose Noise Element, which specifies a limit of 55 dB DNL at residential properties impacted by non-transportation related noise sources. The City Council Drive-Through Policy states that the drive-through menu board speaker shall not be audible at any adjacent residential property line. A noise source will be audible if it, typically, is at or higher than the existing ambient noise level exceeded 90% of the time.

The existing ambient noise exposures from street traffic in the rear yards of houses were found to be up to 76 dB DNL across Almaden Expressway and up to 69 dB DNL across McAbee Road. The quiet background noise levels measured during the planned operational hours of the drive-through were found to be as low as 43 dBA. The noise exposures from the speaker were determined to be only 30 dB DNL across Almaden Expressway, and 27 dB DNL across McAbee Road. The report concluded that because these noise impacts will be below these established thresholds, there will not be a significant impact and mitigation measures will not be required. The worst-case single event maximum noise level at the residential property line is 37dBA.

### Archaeology

The project is located in an area classified as “archaeologically sensitive” and past archeology reports have indicated that subsurface cultural resources could exist on the site. The project will incorporate mitigation measures, including monitoring, incorporated into the Negative Declaration for the original Planned Development Zoning for the site in 1986.

### Traffic

The proposed addition of a drive-through use, since not in conjunction with any expansion of the building, is not anticipated to generate a significant increase in traffic that would reduce the level of service (LOS) to the adjacent intersection. The signalized intersection at Almaden Expressway and McAbee Road currently operates as a LOS “C” intersection and the level of service would not change as a result of this proposal. The Department of Public Works indicated that this proposal would not have any significant impacts to this intersection. The location of the drive-through lane is very internalized on the site and should not result in any stacking overflow onto to public streets.

## **ANALYSIS**

This section of the report provides an analysis of the applicant’s original proposal and their more recently created alternative. As will be discussed in detail, each of these proposals has a significant number of design flaws. As a result, staff has prepared a third option (entitled “Staff Alternative”) which puts forth a design that better achieves the desired objectives of conformance to the Commercial Design Guidelines and key elements of the City Council Policy 6-10 on Drive-Through Uses (see attached).

Each of the project alternatives is analyzed with respect to conformance to the City Council Policy on Drive-Through Uses. This policy was developed to provide guidelines for the development of establishments with drive-through facilities within the city. The policy criteria shall be applied to the development of drive-through facilities. The policy criteria address traffic, noise, hours of operation, emission control, urban design, lighting, and location in order to ensure appropriate land use compatibility and operation. Recommendations are also included to ensure adequate stacking for the drive-through lane and a site configuration that avoid pedestrian conflicts. Proposals for drive-through uses are also evaluated for conformance with the Commercial Design Guidelines, which include measures to ensure adequate buffering and landscaping from the street and other uses on the site.

Common to each of the design alternatives is the preservation of the existing building, which is attractively designed and fits in well with the overall retail center design. Under each design scenario, an overall seating capacity for 130 patrons is proposed. The parking requirement established under the Zoning Ordinance for restaurant uses will be adopted as part of this project. This requirement is for one (1) parking space per every 2.5 seats. This equates to an overall restaurant-parking requirement of 52 spaces for the project. The existing parking requirement for the balance of the retail/office center is one (1) space per 177 square feet of floor area per the approved Planned Development zoning. This requirement represents a blending of office, retail and restaurant parking ratios that has worked well for this center, and generally conforms the intent of the current Zoning Ordinance requirements. For this reason, only the parking ratios of the McDonald’s component of the project are proposed for modification as part of this rezoning.

### Applicant's Original Project Design Alternative

The original project proposes the creation of a new drive-through lane in the front setback of the existing building. The drive-through lane wraps around the building, reducing the front landscaped area from 25 to about 10 feet in width. A low screen wall and an overhead trellis structure would be added to reduce the unattractive aspects for a small length of the overall drive-through lane. Similar architectural concepts have been approved for a few other recent drive-through proposals, but for new structures that do not sacrifice the perimeter landscaping.

Vehicles would enter the drive-through lane from the parking lot south of the restaurant, turn to the west at the corner of the site and continue through the parking lot to the west. The applicant prefers the original design alternative because it minimizes the amount of interior modifications to the existing building and to the parking lot. Under this design scenario, accommodation of the drive-through lane and its points of access within the existing parking lot result in the loss of 15 parking spaces on the site. Pursuant to the parking requirements, adequate parking will be provided. Four surplus parking spaces would also be provided.

While the original project proposal meets the criteria of the Drive-through Policy regarding traffic, noise, hours of operation, emission control, and lighting, it does not meet the criteria for urban design and location. The urban design criteria seek compatibility with the shopping center and immediate neighborhood. Substantial landscaping for buffering from adjacent properties is required. The original project design removes significant amounts of the existing landscaped setbacks along the Almaden Expressway and McAbee Road frontages. The existing landscaped setbacks were intentionally required with the approved project to conform to the suburban location. The existing setbacks contribute to the unique quality and character of this center. The original drive-through proposal substantially reduces the design integrity of the entire center, and therefore, does not conform to the urban design criteria.

The Drive-through Policy states that drive-through uses should be located 200 feet or more from immediately adjacent or directly opposite residentially used, zoned, or General Plan designated properties. The intent of this requirement is to reduce the potential noise impacts created by vehicles using the drive-through lanes from nearby residential uses. Conformance to the location policy in most cases generally ensures that such uses are not likely to cause significant noise impacts to nearby residential uses.

The proposed project does not meet the 200 feet separation requirement. The project drive-through lane proposal is located 138' from residentially zoned property across McAbee Road, and 175' from residentially zoned property across Almaden Expressway. Concerns about potential noise impacts is one of the key reasons that area residents filed a protest to the Negative Declaration for the project (See ND protest staff report). The noise report concluded that this project, despite the lack of precise, technical conformance to the policy for separation from residential uses, was not likely to result in any significant noise impacts. A primary consideration was the existing traffic noise generated from Almaden Expressway and McAbee Road. This project would not otherwise meet the intent of the drive-through separation policy, if significant streets did not separate the drive-through and adjacent residential uses. Staff is in concurrence with the findings of the noise report in this regard.

The Commercial Design Guidelines state that drive-through uses should be functional, attractive and should not create a nuisance for adjoining properties. Neither the drive-through window nor stacking lane should face a public street. The original project design does not conform because both the drive-through window and stacking lane face towards Almaden Expressway. The Guidelines also call for a

25-foot parking setback for buildings and parking areas (including driveways) from streets. Under this proposal, the drive-through lane has a setback of only 10 feet from the property line at the street. The loss of such a substantial amount of the front landscaped area will have a dramatic negative visual impact on the quality of the existing center. Smaller perimeter landscaped areas may be appropriate in more urban settings, but are not consistent with the existing suburban/rural context of Almaden Valley.

#### Applicant's Alternative Design Proposal

The applicant prepared this alternative in response to staff's concerns about the loss of front setback landscaping and issues regarding the proximity of the drive-through lane to residential uses. The applicant has indicated their preference for the original design, but this alternative also has their corporate acceptance. Only minor interior floor plan modifications are necessary in order to implement this site design alternative.

The Commercial Design Guidelines state that neither the drive-through window nor stacking lane should face a public street. The alternative project proposal is an improvement over the original in that the drive-through window and much of the lane would face the parking lot. This design alternative, while better from a streetscape design perspective as compared to the original alternative, still falls short of meeting the design criteria of the City's Commercial Design Guidelines and key elements of the City Council Policy on Drive-Through Uses. Under this design scenario, approximately 100 feet of the site's Almaden Expressway frontage will have a substandard landscape area of only 12 to 17 feet in width.

The placement of the drive-through lane in the parking lot creates an undesirable situation, whereby pedestrian access from required parking areas must cross the drive-through lane. Both the Commercial Design Guidelines and Drive-Through Policy strongly discourage such site configurations. The primary parking field adjacent to the main pedestrian entrance of the restaurant provides only 23 of the required 52 parking spaces. It is likely that a significant number of patrons would need to walk across the drive-through lane in order to enter the building.

Contrary to the Commercial Design Guidelines, the proposed drive-through lane is separated from one of the primary parking area aisles by a painted stripe, rather than a more significant raised barrier with landscaping. This design creates potential traffic circulation operational hazards. There is not adequate separation between the drive-through stacking and the parking lot. The proposed design has parking spaces accessed from the drive-through lane with a small dead-end parking area adjacent to the exit of the drive-through lane. Customers exiting the drive-through lane may be encouraged to drive the wrong way on a one-way parking aisle in order to achieve direct access to McAbee Road.

This proposal, as compared the original concept, improves the separation of the drive-through lane from residential uses on McAbee from 138 to over 200 feet. The separation from residential uses across Almaden Expressway remains 175 feet.

The overall number of parking spaces for the entire center would be reduced slightly as compared to the existing site layout. The project will lose four spaces as compared to the original proposal. Based on the parking spaces provided under this scenario, the project would almost comply with the required parking ratios. This alternative would result in a deficiency of two required parking spaces, however, the re-striping of existing parking spaces to "uni-stall" dimensions would ensure compliance.

### Staff Alternative

Staff have prepared and attached a site plan which modifies the applicant's alternative plan and provides a greater degree of compliance to the Commercial Design Guidelines and key elements of the City Council Policy on Drive-Through Uses, particularly urban design and location. Under this design scenario, the building is preserved as with both of the applicant's proposals with minimal modifications to the interior of the building.

Under this site design alternative the design problems identified in both of the applicant's proposals are adequately resolved. The staff alternative accomplishes the following:

1. The drive-through lane is located outside the existing 25-foot landscaped area along both street frontages.
2. The parking field next to the building entrance is increased from 23 to 33 parking spaces, thus reducing the likelihood of pedestrians crossing the drive-through lane.
3. The drive-through lane is more physically separated from other parking areas and driveway aisles.
4. Dead-end and/or non-conventional designed parking areas are avoided.
5. The distance of the drive-through lane from the nearest residential use backing-up to Almaden Expressway is increased from 180 to 195 feet.
6. The impacts of the site design require fewer site design modifications to the parking area for the balance of the center as compared to the applicant's alternative.
7. This alternative provides more overall parking spaces than the applicant's alternative proposal.

### **CONCLUSION**

There are few McDonald's restaurants in suburban locations in San Jose without drive-through facilities. The subject project can be appropriately retrofitted, as noted with the Staff Alternative, so that substantial conformance to the intent of the design objectives noted in both the Commercial Design Guidelines and City Council Policy on Drive-Through Uses can be achieved.

This small neighborhood retail center is very well maintained and has an attractive architectural quality that is unique among centers of its size. It is admirable that the applicant has made efforts to maintain the integrity of the center by preserving the existing structure. In almost all cases, the City has been very successful in gaining a good level of compliance for new drive-through restaurant proposals. Given very little additional effort, this project could also achieve a similar level of compliance.

### **PUBLIC OUTREACH**

A neighborhood meeting was held on June 20, 2001 at the McDonald's Restaurant. The owner of the franchise presented architectural renderings of the proposed drive-through lane and trellis on Almaden Expressway. Neighbors expressed concern about the drive-through lane stacking, hours of operation, decrease in available parking spaces, proximity to residential neighbors, and operational traffic safety issues on McAbee Road.

A notice of the public hearing and environmental review was distributed to the owners and tenants of all properties located within 500 feet of the project site.

## RECOMMENDATION

Staff recommends that Planning Commission direct the applicant to modify the project plans to reflect the “Staff Alternative” site plan prior to City Council consideration. Upon inclusion of said plan revisions, Staff recommends that the Planning Commission forward a recommendation of approval of the proposed Planned Development Rezoning for the following reasons:

1. The proposed Rezoning conforms to the site’s General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial.
2. The project, as conditioned, is in substantial conformance to the intent of the Commercial Design Guidelines.
3. The project, as conditioned, is in substantial conformance to the intent of the City Council Policy for Drive-Through Uses.
4. The proposed project provides adequate parking.
5. The project is appropriately integrated into the existing retail center and is compatible with the surrounding residential uses.

Attachments